

1 L. KIERAN KIECKHEFER, SBN 251978
2 kkieckhefer@gibsondunn.com
3 JOSEPH A. GORMAN, SBN 267553
4 jgorman@gibsondunn.com
5 CHRISTINA MYROLD, SBN 324183
6 cmyrold@gibsondunn.com
7 GIBSON, DUNN & CRUTCHER LLP
8 One Embarcadero Center, Suite 2600
9 San Francisco, CA 94111-3715
10 Telephone: 415.393.8200
Facsimile: 415.393.8306

11 ILISSA SAMPLIN, SBN 314018
12 isamplin@gibsondunn.com
13 GIBSON, DUNN & CRUTCHER LLP
14 333 South Grand Avenue
15 Los Angeles, California 90071-3197
Telephone: 213.229.7000
Facsimile: 213.229.7520

16 AHMED ELDESSOUKI, *pro hac vice*
aeldessouki@gibsondunn.com
17 GIBSON, DUNN & CRUTCHER LLP
200 Park Avenue
18 New York, NY 10166-0193
Telephone: 212.351.4000
Facsimile: 212.351.4035

19 *Attorneys for Plaintiff*
20 CADENCE DESIGN SYSTEMS, INC.

21 CADENCE DESIGN SYSTEMS, INC., a
Delaware corporation,

22 Plaintiff,

23 v.

24 JEFFREY APPLEBAUM,

25 Defendant.

26 Case No.: 5:24-cv-00290-PCP

27 **STIPULATION AND ~~PROPOSED~~
28 PROTECTIVE ORDER
AS MODIFIED BY THE COURT**

1 Plaintiff Cadence Design System, Inc. (“Cadence”) and Defendant Jeffrey Applebaum
 2 (collectively, the “Parties”), by and through their respective counsel of record, hereby stipulate and
 3 agree as follows:

4 **1. PURPOSES AND LIMITATIONS**

5 Disclosure and discovery activity in this action are likely to involve production of
 6 confidential, proprietary, or private information for which special protection from public disclosure
 7 and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly,
 8 the parties hereby stipulate to and petition the court to enter the following Stipulated Protective
 9 Order. The parties acknowledge that this Order does not confer blanket protections on all disclosures
 10 or responses to discovery and that the protection it affords from public disclosure and use extends
 11 only to the limited information or items that are entitled to confidential treatment under the applicable
 12 legal principles. The parties further acknowledge, as set forth in Section 12.4, below, that this
 13 Stipulated Protective Order does not entitle them to file confidential information under seal; Civil
 14 Local Rule 79-5 sets forth the procedures that must be followed and the standards that will be applied
 15 when a party seeks permission from the court to file material under seal.

16 **2. DEFINITIONS**

17 2.1 Challenging Party: a Party or Non-Party that challenges the designation of
 18 information or items under this Order.

19 2.2 “CONFIDENTIAL” Information or Items: information (regardless of how it is
 20 generated, stored or maintained) or tangible things that qualify for protection under Federal Rule of
 21 Civil Procedure 26(c).

22 2.3 Counsel (without qualifier): Outside Counsel of Record and House Counsel (as well
 23 as their support staff).

24 2.4 Designated House Counsel: House Counsel who seek access to “HIGHLY
 25 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” information in this matter

26 2.5 Designating Party: a Party or Non-Party that designates information or items that it
 27 produces in disclosures or in responses to discovery as “CONFIDENTIAL” or “HIGHLY

1 CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

2 2.6 Disclosure or Discovery Material: all items or information, regardless of the medium
3 or manner in which it is generated, stored, or maintained (including, among other things, testimony,
4 transcripts, and tangible things), that are produced or generated in disclosures or responses to
5 discovery in this matter.

6 2.7 Expert: a person with specialized knowledge or experience in a matter pertinent to the
7 litigation who (1) has been retained by a Party or its counsel to serve as an expert witness or as a
8 consultant in this action, (2) is not a past or current employee of a Party or of a Party’s competitor,
9 and (3) at the time of retention, is not anticipated to become an employee of a Party or of a Party’s
10 competitor.

11 2.8 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” Information or Items:
12 extremely sensitive “Confidential Information or Items,” disclosure of which to another Party or
13 Non-Party would create a substantial risk of serious harm that could not be avoided by less restrictive
14 means.

15 2.9 House Counsel: attorneys who are employees of a party to this action. House
16 Counsel does not include Outside Counsel of Record or any other outside counsel.

17 2.10 Non-Party: any natural person, partnership, corporation, association, or other legal
18 entity not named as a Party to this action.

19 2.11 Outside Counsel of Record: attorneys who are not employees of a party to this action
20 but are retained to represent or advise a party to this action and have appeared in this action on behalf
21 of that party or are affiliated with a law firm which has appeared on behalf of that party.

22 2.12 Party: any party to this action, including all of its officers, directors, employees,
23 consultants, retained experts, and Outside Counsel of Record (and their support staffs).

24 2.13 Producing Party: a Party or Non-Party that produces Disclosure or Discovery Material
25 in this action.

26 2.14 Professional Vendors: persons or entities that provide litigation support services (e.g.,
27 photocopying, videotaping, translating, preparing exhibits or demonstrations, and organizing, storing,
28

1 or retrieving data in any form or medium) and their employees and subcontractors.

2 2.15 Protected Material: any Disclosure or Discovery Material that is designated as
3 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

4 2.16 Receiving Party: a Party that receives Disclosure or Discovery Material from a
5 Producing Party.

6 **3. SCOPE**

7 The protections conferred by this Stipulation and Order cover not only Protected Material (as
8 defined above), but also (1) any information copied or extracted from Protected Material; (2) all
9 copies, excerpts, summaries, or compilations of Protected Material; and (3) any testimony,
10 conversations, or presentations by Parties or their Counsel that might reveal Protected Material.

11 However, the protections conferred by this Stipulation and Order do not cover the following
12 information: (a) any information that is in the public domain at the time of disclosure to a Receiving
13 Party or becomes part of the public domain after its disclosure to a Receiving Party as a result of
14 publication not involving a violation of this Order, including becoming part of the public record
15 through trial or otherwise; and (b) any information known to the Receiving Party prior to the
16 disclosure or obtained by the Receiving Party after the disclosure from a source who obtained the
17 information lawfully and under no obligation of confidentiality to the Designating Party. Any use of
18 Protected Material at trial shall be governed by a separate agreement or order.

19 **4. DURATION**

20 Even after final disposition of this litigation, the confidentiality obligations imposed by this
21 Order shall remain in effect until a Designating Party agrees otherwise in writing or a court order
22 otherwise directs. Final disposition shall be deemed to be the later of (1) dismissal of all claims and
23 defenses in this action, with or without prejudice; and (2) final judgment herein after the completion
24 and exhaustion of all appeals, rehearings, remands, trials, or reviews of this action, including the time
25 limits for filing any motions or applications for extension of time pursuant to applicable law.

26 **5. DESIGNATING PROTECTED MATERIAL**

27 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each Party or

1 Non-Party that designates information or items for protection under this Order must take care to limit
 2 any such designation to specific material that qualifies under the appropriate standards. To the extent
 3 it is practical to do so, the Designating Party must designate for protection only those parts of
 4 material, documents, items, or oral or written communications that qualify – so that other portions of
 5 the material, documents, items, or communications for which protection is not warranted are not
 6 swept unjustifiably within the ambit of this Order.

7 Mass, indiscriminate, or routinized designations are prohibited. Designations that are shown
 8 to be clearly unjustified or that have been made for an improper purpose (e.g., to unnecessarily
 9 encumber or retard the case development process or to impose unnecessary expenses and burdens on
 10 other parties) expose the Designating Party to sanctions.

11 If it comes to a Designating Party's attention that information or items that it designated for
 12 protection do not qualify for protection at all or do not qualify for the level of protection initially
 13 asserted, that Designating Party must promptly notify all other parties that it is withdrawing the
 14 mistaken designation.

15 5.2 Manner and Timing of Designations. Except as otherwise provided in this Order (see,
 16 e.g., second paragraph of Section 5.2(a) below), or as otherwise stipulated or ordered, Disclosure or
 17 Discovery Material that qualifies for protection under this Order must be clearly so designated before
 18 the material is disclosed or produced.

19 Designation in conformity with this Order requires:

20 (a) for information in documentary form (e.g., paper or electronic documents, but excluding
 21 transcripts of depositions or other pretrial or trial proceedings), that the Producing Party affix the
 22 legend “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” to
 23 each page that contains protected material. If only a portion or portions of the material on a page
 24 qualifies for protection, the Producing Party also must clearly identify the protected portion(s) (e.g.,
 25 by making appropriate markings in the margins) and must specify, for each portion, the level of
 26 protection being asserted.

27 A Party or Non-Party that makes original documents or materials available for inspection

1 need not designate them for protection until after the inspecting Party has indicated which material it
 2 would like copied and produced. During the inspection and before the designation, all of the material
 3 made available for inspection shall be deemed “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
 4 ONLY.” After the inspecting Party has identified the documents it wants copied and produced, the
 5 Producing Party must determine which documents, or portions thereof, qualify for protection under
 6 this Order. Then, before producing the specified documents, the Producing Party must affix the
 7 appropriate legend (“CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
 8 ONLY”) to each page that contains Protected Material. If only a portion or portions of the material
 9 on a page qualifies for protection, the Producing Party also must clearly identify the protected
 10 portion(s) (e.g., by making appropriate markings in the margins) and must specify, for each portion,
 11 the level of protection being asserted.

12 (b) for testimony given in deposition or in other pretrial or trial proceedings, that the
 13 Designating Party identify on the record, before the close of the deposition, hearing, or other
 14 proceeding, all protected testimony and specify the level of protection being asserted. When it is
 15 impractical to identify separately each portion of testimony that is entitled to protection and it appears
 16 that substantial portions of the testimony may qualify for protection, the Designating Party may
 17 invoke on the record (before the deposition, hearing, or other proceeding is concluded) a right to have
 18 up to 21 days to identify the specific portions of the testimony as to which protection is sought and to
 19 specify the level of protection being asserted. Only those portions of the testimony that are
 20 appropriately designated for protection within the 21 days shall be covered by the provisions of this
 21 Stipulated Protective Order. Alternatively, a Designating Party may specify, at the deposition or up
 22 to 21 days afterwards if that period is properly invoked, that the entire transcript shall be treated as
 23 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

24 Parties shall give the other parties notice if they reasonably expect a deposition, hearing or
 25 other proceeding to include Protected Material so that the other parties can ensure that only
 26 authorized individuals who have signed the “Acknowledgment and Agreement to Be Bound”
 27 (Exhibit A) are present at those proceedings. The use of a document as an exhibit at a deposition

1 shall not in any way affect its designation as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –
 2 ATTORNEYS’ EYES ONLY.”

3 Transcripts containing Protected Material shall have an obvious legend on the title page that
 4 the transcript contains Protected Material, and the title page shall be followed by a list of all pages
 5 (including line numbers as appropriate) that have been designated as Protected Material and the level
 6 of protection being asserted by the Designating Party. The Designating Party shall inform the court
 7 reporter of these requirements. Any transcript that is prepared before the expiration of a 21-day
 8 period for designation shall be treated during that period as if it had been designated “HIGHLY
 9 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” in its entirety unless otherwise agreed. After the
 10 expiration of that period, the transcript shall be treated only as actually designated.

11 (c) for information produced in some form other than documentary and for any other tangible
 12 items, that the Producing Party affix in a prominent place on the exterior of the container or
 13 containers in which the information or item is stored the legend “CONFIDENTIAL” or “HIGHLY
 14 CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” If only a portion or portions of the information
 15 or item warrant protection, the Producing Party, to the extent practicable, shall identify the protected
 16 portion(s) and specify the level of protection being asserted.

17 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to
 18 designate qualified information or items does not, standing alone, waive the Designating Party’s right
 19 to secure protection under this Order for such material. Upon timely correction of a designation, the
 20 Receiving Party must make reasonable efforts to assure that the material is treated in accordance with
 21 the provisions of this Order.

22 6. **CHALLENGING CONFIDENTIALITY DESIGNATIONS**

23 6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of
 24 confidentiality at any time. Unless a prompt challenge to a Designating Party’s confidentiality
 25 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic burdens,
 26 or a significant disruption or delay of the litigation, a Party does not waive its right to challenge a
 27 confidentiality designation by electing not to mount a challenge promptly after the original

1 designation is disclosed.

2 6.2 Meet and Confer. The Challenging Party shall initiate the dispute resolution process
 3 by providing written notice of each designation it is challenging and describing the basis for each
 4 challenge. To avoid ambiguity as to whether a challenge has been made, the written notice must
 5 recite that the challenge to confidentiality is being made in accordance with this specific paragraph of
 6 the Protective Order. The parties shall attempt to resolve each challenge in good faith and must begin
 7 the process by conferring directly (in voice to voice dialogue; other forms of communication are not
 8 sufficient) within 14 days of the date of service of notice. In conferring, the Challenging Party must
 9 explain the basis for its belief that the confidentiality designation was not proper and must give the
 10 Designating Party an opportunity to review the designated material, to reconsider the circumstances,
 11 and, if no change in designation is offered, to explain the basis for the chosen designation. A
 12 Challenging Party may proceed to the next stage of the challenge process only if it has engaged in
 13 this meet and confer process first or establishes that the Designating Party is unwilling to participate
 14 in the meet and confer process in a timely manner.

15 6.3 Judicial Intervention. If the Parties cannot resolve a challenge without court
~~they must submit the dispute in accordance with Judge van Keulen's Civil and~~
~~intervention, the Designating Party shall file and serve a motion to retain confidentiality under Civil~~
~~Discovery Referral Matters Standing Order~~
~~Local Rule 7~~ (and in compliance with Civil Local Rule 79-5, if applicable) within 21 days of the
 18 initial notice of challenge or within 14 days of the parties agreeing that the meet and confer process
~~joint submission must affirm that the~~
 19 will not resolve their dispute, whichever is earlier. Each such motion must be accompanied by a
~~Parties have~~
~~competent declaration affirming that the movant has complied with the meet and confer requirements~~
~~initiate such a joint~~
 21 imposed in the preceding paragraph. Failure by the Designating Party to ~~make such a motion~~
~~submission~~
 22 ~~including the required declaration~~ within 21 days (or 14 days, if applicable) shall automatically waive
 23 the confidentiality designation for each challenged designation. In addition, the Challenging Party
~~initiate a joint submission~~
 24 may ~~file a motion~~ challenging a confidentiality designation at any time if there is good cause for
 25 doing so, including a challenge to the designation of a deposition transcript or any portions thereof.
~~joint submission made~~
 26 Any ~~motion brought~~ pursuant to this provision must be accompanied by a competent declaration
~~affirm that the Parties have~~
 27 ~~affirming that the movant has~~ complied with the meet and confer requirements imposed by the

1 preceding paragraph.

2 The burden of persuasion in any such challenge proceeding shall be on the Designating Party.
 3 Frivolous challenges and those made for an improper purpose (e.g., to harass or impose unnecessary
 4 expenses and burdens on other parties) may expose the Challenging Party to sanctions. Unless the
 5 Designating Party has waived the confidentiality designation by failing to file a motion to retain
 6 confidentiality as described above, all parties shall continue to afford the material in question the
 7 level of protection to which it is entitled under the Producing Party's designation until the court rules
 8 on the challenge.

9 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

10 7.1 Basic Principles. A Receiving Party may use Protected Material that is disclosed or
 11 produced by another Party or by a Non-Party in connection with this case only for prosecuting,
 12 defending, or attempting to settle this litigation. Such Protected Material may be disclosed only to
 13 the categories of persons and under the conditions described in this Order. When the litigation has
 14 been terminated, a Receiving Party must comply with the provisions of Section 13 below (FINAL
 15 DISPOSITION).

16 Protected Material must be stored and maintained by a Receiving Party at a location and in a
 17 secure manner that ensures that access is limited to the persons authorized under this Order.

18 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise ordered by
 19 the court or permitted in writing by the Designating Party, a Receiving Party may disclose any
 20 information or item designated “CONFIDENTIAL” only to:

21 (a) the Receiving Party’s Outside Counsel of Record in this action, as well as employees of
 22 said Outside Counsel of Record to whom it is reasonably necessary to disclose the information for
 23 this litigation and who have signed the “Acknowledgment and Agreement to Be Bound” that is
 24 attached hereto as Exhibit A;

25 (b) the officers, directors, and employees (including House Counsel) of the Receiving Party to
 26 whom disclosure is reasonably necessary for this litigation and who have signed the
 27 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

1 (c) Experts (as defined in this Order) of the Receiving Party to whom disclosure is reasonably
 2 necessary for this litigation and who have signed the “Acknowledgment and Agreement to Be
 3 Bound” (Exhibit A);

4 (d) the court and its personnel;

5 (e) court reporters and their staff, professional jury or trial consultants, and Professional
 6 Vendors to whom disclosure is reasonably necessary for this litigation and who have signed the
 7 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

8 (f) during their depositions, witnesses in the action to whom disclosure is reasonably
 9 necessary and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A),
 10 unless otherwise agreed by the Designating Party or ordered by the court. Pages of transcribed
 11 deposition testimony or exhibits to depositions that reveal Protected Material must be separately
 12 bound by the court reporter and may not be disclosed to anyone except as permitted under this
 13 Stipulated Protective Order.

14 (g) the author or recipient of a document containing the information or a custodian or other
 15 person who otherwise possessed or knew the information.

16 7.3 Disclosure of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”

17 Information or Items. Unless otherwise ordered by the court or permitted in writing by the
 18 Designating Party, a Receiving Party may disclose any information or item designated “HIGHLY
 19 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” only to:

20 (a) the Receiving Party’s Outside Counsel of Record in this action, as well as employees of
 21 said Outside Counsel of Record to whom it is reasonably necessary to disclose the information for
 22 this litigation and who have signed the “Acknowledgment and Agreement to Be Bound” that is
 23 attached hereto as Exhibit A;

24 b) Designated House Counsel of the Receiving Party (1) who has no involvement in
 25 competitive decision-making, (2) to whom disclosure is reasonably necessary for this litigation, (3)
 26 who has signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A), and (4) as to whom
 27 the procedures set forth in paragraph 7.4(a)(1), below, have been followed;

1 (c) Experts of the Receiving Party (1) to whom disclosure is reasonably necessary for this
 2 litigation, (2) who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A), and
 3 (3) as to whom the procedures set forth in paragraph 7.4(a)(2), below, have been followed;

4 (d) the court and its personnel;

5 (e) court reporters and their staff, professional jury or trial consultants, and Professional
 6 Vendors to whom disclosure is reasonably necessary for this litigation and who have signed the
 7 “Acknowledgment and Agreement to Be Bound” (Exhibit A); and

8 (f) the author or recipient of a document containing the information or a custodian or other
 9 person who otherwise possessed or knew the information.

10 7.4 Procedures for Approving or Objecting to Disclosure of “HIGHLY CONFIDENTIAL
 11 – ATTORNEYS’ EYES ONLY” Information or Items to Designated House Counsel or Experts.

12 (a)(1) Unless otherwise ordered by the court or agreed to in writing by the Designating Party,
 13 a Party that seeks to disclose to Designated House Counsel any information or item that has been
 14 designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” pursuant to paragraph
 15 7.3(b) first must make a written request to the Designating Party that (1) sets forth the full name of
 16 the Designated House Counsel and the city and state of his or her residence, and (2) describes the
 17 Designated House Counsel’s current and reasonably foreseeable future primary job duties and
 18 responsibilities in sufficient detail to determine if House Counsel is involved, or may become
 19 involved, in any competitive decision-making.

20 (a)(2) Unless otherwise ordered by the court or agreed to in writing by the Designating Party,
 21 a Party that seeks to disclose to an Expert (as defined in this Order) any information or item that has
 22 been designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” pursuant to
 23 paragraph 7.3(c) first must make a written request to the Designating Party that (1) identifies the
 24 general categories of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” information that
 25 the Receiving Party seeks permission to disclose to the Expert, (2) sets forth the full name of the
 26 Expert and the city and state of his or her primary residence, (3) attaches a copy of the Expert’s
 27 current resume, (4) identifies the Expert’s current employer(s), (5) identifies each person or entity

1 from whom the Expert has received compensation or funding for work in his or her areas of expertise
 2 or to whom the expert has provided professional services, including in connection with a litigation, at
 3 any time during the preceding five years,¹ and (6) identifies (by name and number of the case, filing
 4 date, and location of court) any litigation in connection with which the Expert has offered expert
 5 testimony, including through a declaration, report, or testimony at a deposition or trial, during the
 6 preceding five years.²

7 (b) A Party that makes a request and provides the information specified in the preceding
 8 respective paragraphs may disclose the subject Protected Material to the identified Designated House
 9 Counsel or Expert unless, within 14 days of delivering the request, the Party receives a written
 10 objection from the Designating Party. Any such objection must set forth in detail the grounds on
 11 which it is based.

12 (c) A Party that receives a timely written objection must meet and confer with the Designating
 13 Party (through direct voice to voice dialogue) to try to resolve the matter by agreement within seven
 14 days of the written objection. If no agreement is reached, ~~the Parties must submit the dispute
 15 in accordance with Judge van Keulen's standing order~~
~~Designated House Counsel or the Expert may file a motion as provided in Civil Local Rule 7~~ (and in
 16 compliance with Civil Local Rule 79-5, if applicable) seeking permission from the court to do so. Any
 17 ~~joint submission~~
~~such motion~~ must describe the circumstances with specificity, set forth in detail the reasons why the
 18 disclosure to Designated House Counsel or the Expert is reasonably necessary, assess the risk of harm
 19 that the disclosure would entail, and suggest any additional means that could be used to reduce that
 20 ~~joint submission must describe~~
~~risk. In addition, any such motion must be accompanied by a competent declaration describing~~ the
 21 parties' efforts to resolve the matter by agreement (i.e., the extent and the content of the meet and
 22 confer discussions) and setting forth the reasons advanced by the Designating Party for its refusal to
 23 approve the disclosure.

24 _____
 25 ¹ If the Expert believes any of this information is subject to a confidentiality obligation to a third-party, then the Expert
 26 should provide whatever information the Expert believes can be disclosed without violating any confidentiality
 27 agreements, and the Party seeking to disclose to the Expert shall be available to meet and confer with the Designating
 28 Party regarding any such engagement.

² It may be appropriate in certain circumstances to restrict the Expert from undertaking certain limited work prior to the
 termination of the litigation that could foreseeably result in an improper use of the Designating Party's "HIGHLY
 CONFIDENTIAL – ATTORNEYS' EYES ONLY" information.

1 In any such proceeding, the Party opposing disclosure to Designated House Counsel or the
 2 Expert shall bear the burden of proving that the risk of harm that the disclosure would entail (under
 3 the safeguards proposed) outweighs the Receiving Party's need to disclose the Protected Material to
 4 its Designated House Counsel or Expert.

5 **8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER**
 6 **LITIGATION**

7 If a Party is served with a subpoena or a court order issued in other litigation that compels
 8 disclosure of any information or items designated in this action as "CONFIDENTIAL" or "HIGHLY
 9 CONFIDENTIAL – ATTORNEYS' EYES ONLY" that Party must:

10 (a) promptly notify in writing the Designating Party. Such notification shall include a copy of
 11 the subpoena or court order;

12 (b) promptly notify in writing the party who caused the subpoena or order to issue in the other
 13 litigation that some or all of the material covered by the subpoena or order is subject to this Protective
 14 Order. Such notification shall include a copy of this Stipulated Protective Order; and

15 (c) cooperate with respect to all reasonable procedures sought to be pursued by the
 16 Designating Party whose Protected Material may be affected.³

17 If the Designating Party timely seeks a protective order, the Party served with the subpoena or
 18 court order shall not produce any information designated in this action as "CONFIDENTIAL" or
 19 "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" before a determination by the court
 20 from which the subpoena or order issued, unless the Party has obtained the Designating Party's
 21 permission. The Designating Party shall bear the burden and expense of seeking protection in that
 22 court of its confidential material – and nothing in these provisions should be construed as authorizing
 23 or encouraging a Receiving Party in this action to disobey a lawful directive from another court.

24 **9. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN**
 25 **THIS LITIGATION**

26 (a) The terms of this Order are applicable to information produced by a Non-Party in this

27 ³ The purpose of imposing these duties is to alert the interested parties to the existence of this Protective Order and to
 28 afford the Designating Party in this case an opportunity to try to protect its confidentiality interests in the court from
 which the subpoena or order issued.

1 action and designated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’
 2 EYES ONLY.” Such information produced by Non-Parties in connection with this litigation is
 3 protected by the remedies and relief provided by this Order. Nothing in these provisions should be
 4 construed as prohibiting a Non-Party from seeking additional protections.

5 (b) In the event that a Party is required, by a valid discovery request, to produce a Non-
 6 Party’s confidential information in its possession, and the Party is subject to an agreement with the
 7 Non-Party not to produce the Non-Party’s confidential information, then the Party shall:

8 1. promptly notify in writing the Requesting Party and the Non-Party that some or all of
 9 the information requested is subject to a confidentiality agreement with a Non-Party;

10 2. promptly provide the Non-Party with a copy of the Stipulated Protective Order in this
 11 litigation, the relevant discovery request(s), and a reasonably specific description of the information
 12 requested; and

13 3. make the information requested available for inspection by the Non-Party.

14 (c) If the Non-Party fails to object or seek a protective order from this court within 14
 15 days of receiving the notice and accompanying information, the Receiving Party may produce the
 16 Non-Party’s confidential information responsive to the discovery request. If the Non-Party timely
 17 seeks a protective order, the Receiving Party shall not produce any information in its possession or
 18 control that is subject to the confidentiality agreement with the Non-Party before a determination by
 19 the court. Absent a court order to the contrary, the Non-Party shall bear the burden and expense of
 20 seeking protection in this court of its Protected Material.

21 **10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

22 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected
 23 Material to any person or in any circumstance not authorized under this Stipulated Protective Order,
 24 the Receiving Party must immediately (a) notify in writing the Designating Party of the unauthorized
 25 disclosures, (b) use its best efforts to retrieve all unauthorized copies of the Protected Material, (c)
 26 inform the person or persons to whom unauthorized disclosures were made of all the terms of this
 27 Order, and (d) request such person or persons to execute the “Acknowledgment and Agreement to Be

1 Bound" that is attached hereto as Exhibit A.

2 **11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED**
 3 **MATERIAL**

4 When a Producing Party gives notice to Receiving Parties that certain inadvertently produced
 5 material is subject to a claim of privilege or other protection, the obligations of the Receiving Parties
 6 are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to
 7 modify whatever procedure may be established in an e-discovery order that provides for production
 8 without prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the
 9 parties reach an agreement on the effect of disclosure of a communication or information covered by
 10 the attorney-client privilege or work product protection, the parties may incorporate their agreement
 11 in the stipulated protective order submitted to the court.

12 **12. MISCELLANEOUS**

13 12.1 Right to Further Relief. Nothing in this Order abridges the right of any person to seek
 14 its modification by the court in the future.

15 12.2 Right to Assert Other Objections. By stipulating to the entry of this Protective Order
 16 no Party waives any right it otherwise would have to object to disclosing or producing any
 17 information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no
 18 Party waives any right to object on any ground to use in evidence of any of the material covered by
 19 this Protective Order.

20 12.3 Export Control. Disclosure of Protected Material shall be subject to all applicable
 21 laws and regulations relating to the export of technical data contained in such Protected Material,
 22 including the release of such technical data to foreign persons or nationals in the United States or
 23 elsewhere. The Producing Party shall be responsible for identifying any such controlled technical
 24 data, and the Receiving Party shall take measures necessary to ensure compliance.

25 12.4 Filing Protected Material. Without written permission from the Designating Party or a
 26 court order secured after appropriate notice to all interested persons, a Party may not file in the public
 27 record in this action any Protected Material. A Party that seeks to file under seal any Protected
 28 Material must comply with Civil Local Rule 79-5. Protected Material may only be filed under seal

1 pursuant to a court order authorizing the sealing of the specific Protected Material at issue. Pursuant
 2 to Civil Local Rule 79-5, a sealing order will issue only upon a request establishing that the Protected
 3 Material at issue is privileged, protectable as a trade secret, or otherwise entitled to protection under
 4 the law. If a Receiving Party's request to file Protected Material under seal pursuant to Civil Local
 5 Rule 79-5 is denied by the court, then the Receiving Party may file the Protected Material in the
 6 public record pursuant to Civil Local Rule 79-5 unless otherwise instructed by the court.

7 **13. FINAL DISPOSITION**

8 Within 60 days after the final disposition of this action, as defined in Section 4, each
 9 Receiving Party must return all Protected Material to the Producing Party or destroy such material.
 10 As used in this subdivision, "all Protected Material" includes all copies, abstracts, compilations,
 11 summaries, and any other format reproducing or capturing any of the Protected Material. Whether
 12 the Protected Material is returned or destroyed, the Receiving Party must submit a written
 13 certification to the Producing Party (and, if not the same person or entity, to the Designating Party) by
 14 the 60-day deadline that (1) identifies (by category, where appropriate) all the Protected Material that
 15 was returned or destroyed and (2) affirms that the Receiving Party has not retained any copies,
 16 abstracts, compilations, summaries or any other format reproducing or capturing any of the Protected
 17 Material. Notwithstanding this provision, Counsel are entitled to retain an archival copy of all
 18 pleadings, motion papers, trial, deposition, and hearing transcripts, legal memoranda,
 19 correspondence, deposition and trial exhibits, expert reports, attorney work product, and consultant
 20 and expert work product, even if such materials contain Protected Material. Any such archival copies
 21 that contain or constitute Protected Material remain subject to this Protective Order as set forth in
 22 Section 4 (DURATION).

23
 24 (Signature page to follow)

1 **IT IS SO STIPULATED.**

2 Dated: January 31, 2024

3 Respectfully submitted,

4 /s/ L. Kieran Kieckhefer

5 L. Kieran Kieckhefer

6 GIBSON, DUNN & CRUTCHER LLP

7 *Attorneys for PLAINTIFF, CADENCE DESIGN
8 SYSTEMS, INC.*

9 /s/ Joel Waelty

10 Joel Waelty

11 *Attorney for DEFENDANT, JEFFREY
12 APPLEBAUM*

13 **IT IS SO ORDERED.**

14 Dated: February 5, 2024



15 Susan van Keulen

16 UNITED STATES MAGISTRATE JUDGE

EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of _____
[print or type full address], declare under penalty of perjury that I have read in its entirety and
understand the Stipulated Protective Order that was issued by the United States District Court for the
Northern District of California on [date] in the case of *Cadence Design Systems, Inc. v. Jeffrey*
Applebaum, Case No. 5:24-cv-00290-PCP. I agree to comply with and to be bound by all the terms
of this Stipulated Protective Order and I understand and acknowledge that failure to so comply could
expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not
disclose in any manner any information or item that is subject to this Stipulated Protective Order to
any person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the Northern District of California for the purpose of enforcing the terms of this Stipulated Protective Order, even if such enforcement proceedings occur after termination of this action.

I hereby appoint _____ [print or type full name] of
_____ [print or type full address and telephone number] as
my California agent for service of process in connection with this action or any proceedings related to
enforcement of this Stipulated Protective Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____
[printed name]

Signature:

FILING ATTESTATION

Pursuant to Local Rule 5-1(i)(3), I, L. Kieran Kieckhefer, hereby attest that concurrence in the filing of this document has been obtained from counsel for Defendant Jeffrey Applebaum.

DATED: January 31, 2024

GIBSON, DUNN & CRUTCHER LLP

By: /s/ L. Kieran Kieckhefer
L. Kieran Kieckhefer